HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.171 of 2007

Between:

Mudragada Satyanarayana and three others

… Appellants

And

The State of A.P. rep., by District Collector,
East Godavari, Kakinada and two others

… Respondents

::JUDGMENT::

Counsel for the appellants : Shri V. Venkataramana

Counsel for the respondents : Government Pleader for Land Acquisition

March 12, 2007

Per G.S. Singhvi, C.J.

Whether the decision of Collector, East Godavari District, Kakinada (for short, 'the Collector') under Section 5A of the Land Acquisition Act, 1894 (for short, 'the Act') is vitiated due to violation of the rules of natural justice and non-application of mind is the question, which arises for determination in this appeal filed against order dated 8-2-2007 passed by the learned Single Judge in Writ Petition No.1837 of 2007 whereby he negatived the appellants' challenge to the acquisition of their land.

The appellants are residents of Veeravaram Village, Kadiam Mandal, East Godavari District. They own small parcels of dry land. The particulars of their land are as under:

SCHEDULE

District: East Godavari Mandal: Kadiam Village: Veeravaram

Survey No.	Description of the land	Reputed owner	Extent in Ac.cts.
59/1A	Dry	Mudragada Satyanarayana S/o.Ramarao Mudragada Rambabu S/o.Ramarao	2.30
59/2	Dry	Mudragada Satyanarayana S/o.Ramarao Mudragada Rambabu S/o.Ramarao	1.82
60/1	Dry	Mudragada Suranna S/o.Ramarao	2.14
60/2	Dry	Mudragada Suranna S/o.Ramarao	1.74
		Total	8.00

Vide notification dated 10-10-2006 issued under Section 4 (1) of the Act, District Collector, East Godavari, Kakinada proposed to acquire the appellants' land for a public purpose, namely, providing house-sites to weaker sections under "Indiramma Pathakam". On receipt of the notice issued by Land Acquisition Officer and Sub-Collector, Rajahmundry (respondent No.3) under Section 5A, the petitioners filed detailed objections. After a gap of few days, some of them filed additional objections. They pointed out that large tracts of government land were available, which could be used for execution of "Indiramma Pathakam" and there was no justification to acquire their land. They further pointed out that they had developed nursery and planted trees and, therefore, the land was not suitable for housing purposes. Respondent No.3 furnished his remarks on the objections of the petitioners. Thereafter, the Collector passed order dated 19-1-2007 whereby he rejected the objections by observing that the same are devoid of merit and directed respondent No.3 to submit draft declaration under Section 6 of the Act for approval. For the sake of reference, the relevant portions of order dated 19-1-2007 are extracted below:

"ORDER:

In the reference 1st cited, the District Collector, East Godavari, Kakinada has issued notification u/s 4 (1) of the Land Acquisition Act, 1894 for acquisition of land in an extent of Ac.8.00 cts. in R.S.No.59/1A etc. of Veeravaram (V) of Kadiam Mandal for provision of house sites to poor and weaker sections under INDIRAMMA Scheme.

Notice u/s 5A of the Act was served on the landowner/ interested person and published in the locality calling objections in any. Enquiry u/s 5A was conducted by the Sub Collector, Rajahmundry on 07.11.2006.

The landowners 1. Sri Mudragadda Rambabu S/o.Ramarao, 2. Sri Mudragada Satyanarayana S/o.Ramarao and 3. Sri Mudragada Suranna S/o.Ramarao of Veeravaram village filed objections against the acquisition of their land. The objections have been duly inquired into by the Sub Collecgtor, Rajahmundry on 07.11.2006 who submitted his remarks along with the objections filed by the landowners.

I. Objections raised by Sri Mudragada Rambabu S/o.Rama Rao:

Objection 1: That the entire extent of Ac.2.30 cents dry land in R.S.No.59/1A proposed for acquisition originally belongs to Mudragada Rambabu, S/o.Rama Rao the same having been allotted towards his share in a partition affected in the year 1983 as evidenced by Memorandum of Partition dated 25/2/1983. Mudragada Rambabu, in all, got only Ac.4.92 cents of dry land and the same alone is the total extent of agricultural land owned and possessed by him and that he is a small farmer.

Remarks: The petitioner owns the following lands in Veeravaram village:

Sl.No.	Sy.No.	Classification	Extent Ac.cts.
1.	55/8	Dry	0.18
2.	57/1	Dry	6.89
3.	58/1	Dry	6.27
4.	59/1A	Dry	2.32

Even after excluding the extent proposed to be acquired now, his holding exceeds 10 Acres of Dry land. Hence the petitioner's objection that he is a small farmer is not true.

Objection 2: That to meet family necessities Mudragada Rambabu the owner of Ac.2-32 cents land in Syrvey No.59/1A sold away Ac.0-32 cents to Saladi Kasi Visweswararao in February, 2002 for a sum of Rs.15,00,000/- per acre on receipt of total consideration under registered sale deed dated 22-9-2006 following an agreement for sale dated 29-2-2002. Therefore, out of Ac.2-32 cents, Ac.0-32 cents belongs to Saladi Kasi Visweswararao. Consequently, Mudragada Rambabu is presently owning and possessing only Ac.4-60 cents of dry land and is totally dependent on the same. Mudragada Rambabu, being small farmer cannot be made to suffer by acquiring almost half of his land.

Remarks: This sale transaction dt.22.9.2006 was executed just two days after the inspection of the said land by the Land Acquisition Officer, knowing fully well that the land would be put to acquisition, it is nothing but a deliberate attempt to mislead the L.A.O. and derail the L.A. process.

Objection 3: That earlier during the year 1969-70 and again in the year 1977 extensive lands belonging to the claimant's forefathers were acquired by Government for the purpose of distribution as house sites, it also acquired some land in Veeravaram Village in the year 1969-70 for Vemagiri Pumping Scheme. Every time the Government proposes to acquire private land for distribution amongst landless poor, the lands of the objector or his family members are affected. Such policy is seriously affecting the claimant's family only. It is for the reason the claimant's family would be virtually landless poor if not small farmers. There is absolutely no justification for any person or government to make the claimant and his family members landless poor person, for the benefit and sake of the other landless poor person.

Remarks: It is true that an extent of Ac.1.50cts. in S.No.59 of Veeravaram village was previously acquired for Vemagiri Pumping Scheme from his forefathers. It is also true that an extent of Ac.2.50 cts. in S.No.30/2C of Damireddipalli (V) was previously acquired from his forefathers for provision of housesites. But appropriate compensation was paid for the lands acquired. The lands said to be acquired previously are from the forefathers of the claimant but not from the claimant himself and it is not at all a valid plea for exemption. Even after the acquisition of the proposed land, the petitioner would be left with Ac.13.36 cts. extent of land. Hence he would not become landless.

Objection 4: The land proposed for acquisition is fit for cultivation, particularly for development of nurseries, in view of its peculiar and advantageous location. If the land proposed for acquisition is converted into house sites, the same would result in damaging very valuable nursery. The claimant therefore pray that the land of Ac.2-30 cents in R.S.No.59/1A proposed for acquisition may not be acquired.

Remarks: The objections of the claimant are not at all a bar for acquisition. The proposed land is quite suitable for construction of houses and hence it is proposed for acquisition. The acquisition would result in the damage of very valuable Nursery is not tenable because the plants raised in pots and polythene bags can easily be shifted to some other place.

Objection 5: That there are other lands, which are not covered by nurseries and more suitable as house sites located in the close vicinity of village proper. The land proposed for acquisition from the claimant is far away from the village and not at all suitable as house site.

Remarks: There are no other suitable lands nearer to Veeravaram village except the land of the objector. His contention that his land is faraway from the village and not at all suitable for house sites is not true since the proposed land is about ½ km from the village and is suitable in all respects.

Objection 6: That huge amounts were invested on the land proposed for acquisition, by raising coconut plantation and other plants meant to be sold. Presently, there are 150 coconut trees and other threes on Ac.2-30 cents in Survey No.59/1A. There is a bore well in the land proposed for acquisition, which costs not less than Rs.2,00,000/-. The present market value of the land proposed for acquisition is more than Rs.15,00,000/- per acre, besides the value of the trees thereon. Considering the value of the land; and the same is only source of income for the landowner whose family is totally dependant on their land for their survival and the claimant is a landless or small farmer the claimant pray that his land may not be acquired, as otherwise the landowner and family members would become virtually paupers and devoid of any source of living.

Remarks: It is true that there is a bore point in the land. As regards the coconut plantation and other trees, suitable compensation would be determined as per existing norms at the time of passing Award. Appropriate compensation for the lands would be arrived and paid duly following the procedure under the Act. It is not true that the land proposed for acquisition is the only source of income for the landowner as the objector gets income through Nursery business from the remaining extent of land. It is also not true that he is a small farmer and his family would become paupers and devoid of any source of living. In fact, the objector is a big farmer and has landed property to an extent of Ac.15.66 cts. even after acquisition, the petitioner would be left with Ac.13.36 cts. of land.

Objection 7: That my family members tombs (SAMADHULU) were situated in the above said survey numbers and we celebrate yearly death anniversary of my family members in the above said survey numbers.

Remarks: This contention is not true because the tombs are not covered in the proposed land under acquisition.

II. <u>Objections raised by Sri Mudragada Satyanarayana S/o.Rama Rao</u>:

Objection 1: That the entire extent of Ac.1.82 cents dry land in R.S.No.59/2 proposed for acquisition originally belongs to Mudragada Satyanarayana S/o.Rama Rao the same having been allotted towards his share in a partition effected in the year 1983 as evidenced by Memorandum of Partition dated 25/2/1983. Mudragada Satyanarayana, in all, got only Ac.4.50 cents of dry land and the same alone is the total extent of agricultural land owned and possessed by him. As such he is a small farmer.

Remarks: The petitioner owns the following lands in Veeravaram village:

Sl.No.	Sy.No.	Classification	Extent Ac.cts.
1.	59/1A	Dry	0.68
2.	58/2A	Dry	1.82
3.	68	Dry	1.85
4.	69	Dry	10.67
		Total:	15.02

Even after excluding the extent proposed to be acquired now, his holding exceeds Ac.5.00 cts. of dry land. Hence the petitioner's objection that he is a small farmer is not true.

Objection 2: That to meet family necessities, Mudragada Satyanarayana the owner of Ac.0.68 cents land in Survey No.59/1A sold away Ac.0.68 cents to Saladi Kasi Visweswara Rao in February, 2002 for a sum of Rs.15,00,000/- per acre and on receipt of total consideration under registered sale deed dated 22-9-2006 following an agreement for sale dated 29-2-2002. Consequently, Mudragada Satyanarayana is presently owning and possessing only Ac.3.82 cents of dry land and he is totally depending on the same. Mudragada Satyanarayana, being small farmer cannot be made to suffer by acquiring almost half of his land.

Remarks: This sale transaction dt.22.9.2006 was executed just two days after the inspection of the said land by the Land Acquisition Officer knowing fully well that the land would be put to acquisition, it is nothing but a deliberate attempt to mislead the L.A.O. and derail the L.A. process.

Objection 3: That earlier during the year 1969-70 and again in the year 1977 extensive lands belonging to the claimant's forefathers were acquired by Government for the purpose of distribution as house sites. It also acquired some land in Veeravaram Village in the year 1969-70 for Vemagiri Pumping Scheme. Every time the Government proposes to acquire private land for distribution amongst landless poor, the lands of the objector or his family members is effected. Such policy is seriously affecting the claiimant's family only. It is for the reason the claimant's family would be virtually landless poor if not small farmers. There is absolutely no justification for any person or government to make the claimant and his family members landless poor person, for the benefit and sake of other landless poor person.

Remarks: It is true that an extent of Ac.1.50cts. in S.No.59 of Veeravaram village was previously acquired for Vemagiri Pumping Scheme from his forefathers. It is also true that an extent of Ac.2.50 cts. in S.No.30/2C of Damireddipalli (V) was previously acquired from his forefathers for provision of housesites. But appropriate compensation was paid for the lands acquired. The lands said to be acquired previously are from the forefathers of the claimant but not from the claimant himself and it is not at all a valid plea for exemption. Even after the acquisition of the proposed land, the petitioner would be left with Ac.13.20 cts. extent of land. Hence he would not become landless.

Objection 4 The land proposed for acquisition is fit for cultivation, particularly for development of nurseries, in view of its peculiar and advantageous location. If the land proposed for acquisition is converted into house sites, the same would result in damaging very valuable nursery. The claimant therefore pray that the land of Ac.1-82 cents in R.S.No.59/2 proposed for acquisition may not be acquired.

Remarks: The objections of the claimant are not at all a bar for acquisition. The proposed land is quite suitable for construction of houses and hence it is proposed for acquisition. The acquisition would result in the damage of very valuable Nursery is not tenable because the plants raised in pots and polythene bags can easily be shifted to some other place.

Objection 5: That there are other lands, which are not covered by nurseries and more suitable as house sites located in the close vicinity of village proper. The land proposed for acquisition from the claimant is far away from the village and not at all suitable as house site.

Remarks: There are no other suitable lands nearer to Veeravaram village except the land of the objector. His contention that his land is faraway from the village and not at all suitable for house sites is not true since the proposed land is about ½ km. from the village and is suitable in all respects.

Objection 6: That huge amounts were invested on the land proposed for acquisition, by raising coconut plantation and other plants meant to be sold. Presently, there are 110 coconut trees and other threes on Ac.1-82 cents in Survey No.59/2. There is a bore well in the land proposed for acquisition, which costs not less than Rs.2,00,000/- hand pump worth Rs.6,000/- and a Cattle Shed with compound wall worth Rs.6,00,000/-. The present market value of the land proposed for acquisition is more than Rs.15,00,000/- per acre, besides the value of the trees thereon. Considering the value of the land; and the same is only source of income for the landowner whose family is totally dependant on their land for their survival and the claimant is a landless or small farmer the claimant pray that his land may not be acquired, as otherwise the landowner and family members would become virtually paupers and devoid of any source of living.

Remarks: It is true that there is a bore point in the land. As regards the coconut plantation and other trees, suitable compensation would be determined as per existing norms at the time of passing Award. Appropriate compensation for the lands would be arrived and paid duly following the procedure under the Act. It is not true that the land proposed for acquisition is the only source of income for the landowner as the objector gets income through Nursery business from the remaining extent of land. It is also not true that he is a small farmer and his family would become paupers and devoid of any source of living. In fact, the objector is a big farmer and has landed property to an extent of Ac.15.02 cts. even after acquisition, the petitioner would be left with Ac.13.20 cts. of land.

Objection 7: That the claimants family members tombs (SAMADHULU) were situated in the above said survey numbers and they celebrate yearly death anniversary of their family members in the above said survey numbers.

Remarks: This contention is not true because the tombs are not covered in the proposed land under acquisition.

III. Objections raised by Sri Mudragada Suranna S/o. Rama Rao:

Objection 1: That the entire extent of Ac.2.14 cents dry land in R.S.No.60/1 proposed for acquisition originally belongs to Mudragada Suranna, S/o.Rama Rao the same having been allotted towards his share in a partition affected in the year 1983 as evidenced by Memorandum of Partition dated 25/2/1983. Mudragada Rambabu, in all, got only Ac.4.84 cents of dry land and the same alone is the total extent of agricultural land owned and possessed by him As such he is a small farmer. Mudragada Suranna being small farmer cannot be made to suffer by acquiring almost half of his land.

Remarks: The petitioner owns the following lands in Veeravaram village:

Sl.No.	Sy.No.	Classification	Extent Ac.cts.
1.	60/1	Dry	4.84
2.	60/2	Dry	2.69
3.	28/3	Dry	1.64
4.	40	Dry	0.70
		Total:	9.87

Even after excluding the extent proposed to be acquired now, his holding exceeds Ac.5.00 cts. of dry land. Hence the petitioner's objection that he is a small farmer is not true.

Objection 2: That earlier during the year 1969-70 and again in the year 1977 extensive lands belonging to the claimant's forefathers were acquired by Government for the purpose of distribution as house sites, it also acquired some land in Veeravaram Village in the year 1969-70 for Vemagiri Pumping Scheme. Every time the Government proposes to acquire private land for distribution amongst landless poor, the lands of the objector or his family members are affected. Such policy is seriously affecting the claimant's family only. It is for the reason the claimant's family would be virtually landless poor if not small farmers. There is absolutely no justification for any person or government to make the claimant and his family members landless poor person, for the benefit and sake of the other landless poor person.

Remarks: It is true that an extent of Ac.1.50 cts. in S.No.59 of Veeravaram village was previously acquired for Vemagiri Pumping Scheme from his forefathers. It is also true that an extent of Ac.2.50 cts. in S.No.30/2C of Damireddipalli (V) was previously acquired from his forefathers for provision of housesites. But appropriate compensation was paid for the lands acquired. The lands said to be acquired previously are from the forefathers of the claimant but not from the claimant himself and it is not at all a valid plea for exemption. Even after the acquisition of the proposed land, the petitioner would be left with Ac.7.73 cts. extent of land. Hence he would not become landless.

Objection 3: The land proposed for acquisition is fit for cultivation, particularly for development of nurseries, in view of its peculiar and advantageous location. If the land proposed for acquisition is converted into house sites, the same would result in damaging very valuable nursery. The claimant therefore pray that the land of Ac.2-14 cents in R.S.No.60/1 proposed for acquisition may not be acquired.

Remarks: The objections of the claimant are not at all a bar for acquisition. The proposed land is quite suitable for construction of houses and hence it is proposed for acquisition. The acquisition would result in the damage of very valuable Nursery is not tenable because the plants raised in pots and polythene bags can easily be shifted to some other place.

Objection 4: That there are other lands, which are not covered by nurseries and more suitable as house sites located in the close vicinity of village proper. The land proposed for acquisition from the claimant is far away from the village and not at all suitable as house site.

Remarks: There are no other suitable lands nearer to Veeravaram village except the land of the objector. His contention that his land is faraway from the village and not at all suitable for house sites is not true since the proposed land is about ½ km from the village and is suitable in all respects.

Objection 5: That huge amounts are invested on the land proposed for acquisition, by raising coconut plantation and other plants meant to be sold. Presently, there are 150 coconut trees and other threes on Ac.2-14 cents in Survey No.60/1. There are two bore wells in the land proposed for acquisition, which costs not less than Rs.4,00,000/-. The present market value of the land proposed for acquisition is more than Rs.15,00,000/- per acre, besides the value of the trees thereon. Considering the value of the land; and the same is only source of income for the landowner whose family is totally dependant on their land for their survival and the claimant is a landless or small farmer the claimant pray that his land may not be acquired, as otherwise the landowner and family members would become virtually paupers and devoid of any source of living.

Remarks: No bore wells are existing in the said land. As regards the coconut plantation and other trees, suitable compensation would be determined as per existing norms at the time of passing Award. Appropriate compensation for the lands would be arrived and paid duly following the procedure under the Act. It is not true that the land proposed for acquisition is the only source of income for the landowner as the objector gets income through Nursery business from the remaining extent of land. It is also not true that he is a small farmer and his family would become paupers and devoid of any source of living. In fact, the objector is a big farmer and has landed property to an extent of Ac.9.87 cts. even after acquisition, the petitioner would be left with Ac.7.73 cts. of land.

Objection 6: That my family members tombs (SAMADHULU) were situated in the above said survey numbers and we celebrate yearly death anniversary of my family members in the above said survey numbers.

Remarks: This contention is not true because the tombs are not covered in the proposed land under acquisition.

After considering the remarks offered by the Land Acquisition Officer / Sub Collector, Rajahmundry on the objections of the landowner, it is opined that there are no valid grounds in the objections. The objections are devoid of merit and hence rejected.

The Sub Collector, Rajahmundry is requested to submit D.D. u/s.6 of the L.A. Act for approval at once."

Immediately thereafter, draft declaration under Section 6 was issued and was published in the official gazette dated 22-1-2007.

The appellants challenged notification dated 10-10-2006 and the draft declaration in Writ Petition No.1837 of 2007. They pleaded that the enquiry held by respondent No.3 and decision taken on their objections was farce inasmuch as neither of the officers applied their mind to the detailed objections/additional objections and the relevant

documents produced before them to prove the availability of alternative land, which could be utilised for execution of “Indiramma Pathakam”, and their land was not suitable for housing purposes

The learned Single Judge briefly adverted to the factual matrix of the case and dismissed the writ petition by recording the following observations:

> “…… The State under the provisions of the Act is required to hear the objections of landowners to the acquisition proposals. It is not as though the landowners and the State are joint decision makers in the process of acquisition. The petitioners are not to be consulted; only their objections are to be heard and rationally considered.
>
> The order of the 1st respondent rejecting the objections lodged by the petitioners invites no interdiction and suffers from no infirmity.”

Shri Vedula Venkata Ramana relied on the judgment of the Supreme Court in **Hindustan Petroleum Corpn. Ltd. v. Darius Shapur Chenai**[1] and argued that the decision of the Collector, which is reflected in order dated 19-1-2007, is vitiated by an error of law inasmuch as the officer concerned did not at all apply his mind to the objections and documents filed by the appellants and mechanically directed preparation of draft declaration, which was published in the form of notification dated 22-1-2007. Learned counsel emphasised that the power vested in the State Government under Section 5A (2) is quasi-judicial in nature and, therefore, the decision taken by the competent authority for acquisition of land must contain reasons indicating application of mind to the objections and the record produced by the land owners/interested persons. He then argued that the learned Single Judge committed an error by refusing to nullify the draft declaration notwithstanding the fact that the same was not preceded by an enquiry held in accordance with Section 5A (2) of the Act.

In the context of the report submitted by respondent No.3 and the

decision taken by the Collector, we enquired from the learned Government Pleader for Land Acquisition whether there exist any other records from which it is possible to discover reasons which may have been recorded by the District Collector for rejecting the objections filed by the appellants. In reply, the learned Government Pleader candidly stated that there is no separate record containing reasons for rejecting the objections filed by the appellants. He, however, argued that absence of reasons should not be made a ground for nullifying the acquisition proceedings because the land of the appellants is being acquired for a public purpose, namely, providing house-sites to weaker sections of the society.

We have given our most anxious consideration to the respective arguments and perused the record. There cannot be two views that the purpose for which land of the appellants is being acquired is a public purpose. However, this, by itself, cannot absolve the concerned authorities of their duty to act in accordance with law and comply with the mandate of Section 5A of the Act, which reads as under:

> **5A Hearing of objections.**
> (1) Any person interested in any land which has been notified under section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a Company may, [within thirty days from the date of the publication of the notification], object to the acquisition of the land or of any land in the locality, as the case may be.
>
> (2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard [in person or by any person authorised by him in this behalf] or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under section 4, sub- section (1), or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government. The decision of the appropriate Government on

the objections shall be final.

(3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.

A reading of sub-section (2) of Section 5A (reproduced above) shows that on receipt of the objections under sub-section (1), the District Collector is required to hear the objector either in person or through his/her authorised representative or by Pleader. After hearing the objector or the representative and making such other enquiry as he considers necessary, the Collector can either make a report in respect of the land which has been notified under Section 4 (1) or make different reports in respect of different parcels of land. On receipt of the report, the appropriate government has to take final decision in the matter of acquisition of the land.

The Courts have consistently held that the functions of the Collector and the State Government under Section 5A are quasi-judicial in nature and they are duty bound to objectively consider the objections lodged by the landowner and other interested persons and then take appropriate decision on the issue of acquisition of the notified land. In **State of Punjab v. Gurdial Singh**[2], **Om Prakash v. State of U.P.**[3], **Union of India v. Mukesh Hans**[4] and **Union of India v. Krishan Lal Arneja**[5], the Supreme Court held that the land owner/interested person must be provided with reasonable and effective opportunity to lodge objections and persuade the concerned authority not to acquire his/her land. In **Hindustan Petroleum Corpn. Ltd. v. Darius Shapur Chenai** (supra), the Supreme Court referred to the earlier judicial precedents and held:

> "Section 5-A of the Act is in two parts. Upon receipt of objections, the Collector is required to make such further enquiry as he may think necessary whereupon he must submit a report to the appropriate Government in respect of the land

which is the subject-matter of notification under Section 4(1) of the Act. The said report would also contain recommendations on the objections filed by the owner of the land. He is required to forward the records of the proceedings held by him together with the report. On receipt of such a report together with the records of the case, the Government is to render a decision thereupon. It is now well settled in view of a catena of decisions that the declaration made under Section 6 of the Act need not contain any reason. (See **Kalumiya Karimmiya v . State of Gujarat**[6] and **Delhi Admn. v. Gurdip Singh Uban**[7])

However, considerations of the objections by the owner of the land and the acceptance of the recommendations by the Government, it is trite, must precede a proper application of mind on the part of the Government. As and when a person aggrieved questions the decision-making process, the court in order to satisfy itself as to whether one or more grounds for judicial review exist, may call for the records whereupon such records must be produced. The writ petition was filed in the year 1989. As noticed hereinbefore, the said writ petition was allowed. This Court, however, interfered with the said order of the High Court and remitted the matter back to it upon giving an opportunity to the parties to raise additional pleadings.

If the decision of the Collector, which was impugned in the writ petition, is scrutinised in the light of the law laid down in the aforementioned judgments, we do not have the slightest hesitation to invalidate the same on the ground of total non-application of mind by the officer concerned to the objections/additional objections and documents filed by the appellants. The appellants had specifically pointed out that other government lands were available for implementation of “Indiramma Pathakam” and that there was no warrant for acquiring their land. They also pleaded that they had brought the land under plantation and had developed nursery and, therefore, the same was not fit for housing project. Respondent No.3 offered his remarks on each of the objections raised by the land owners, but without appreciating the nature of objections and their tenability. In the light of the remarks offered by respondent No.3, the

Collector mechanically rejected the same by recording the stock words "There is no valid ground in the objections. The objections are devoid of merit and hence rejected." The manner in which the Collector addressed himself to the serious issue of acquiring the appellants' land leaves much to be desired.

It is true that the scheme of the Act envisages compulsory acquisition of land for public purpose subject to payment of compensation to the landowner and the Courts have been extremely chary to interfere with the merits of the government's decision to acquire the land for public purposes, but it is equally true that the Courts have insisted on rigorous compliance of the mandate of Section 5A, which provides the tangible opportunity to the landowner to oppose the acquisition of land. The reason for this approach is not far to seek. If an agriculturist is deprived of his land through the process of land acquisition, not only he, but his entire family and even succeeding generations are deprived of the source of livelihood and they are forced to migrate to the urban areas only to live in slums.

On the basis of the above discussion, we hold that the enquiry held under Section 5A is vitiated due to non-compliance of sub-section (2) and total non-application of mind by the Collector to the objections filed by the appellants and the records produced by them.

A reading of the order under challenge shows that the learned Single Judge did not deal with the issue raised by the appellants in a correct perspective and dismissed the writ petition by erroneously assuming that the stock words used by the Collector were sufficiently indicative of objective application of mind by the officer concerned. With respect, we are unable to approve the approach adopted by the learned Single Judge in dealing with an issue which is of far reaching significance to the appellants, who are sought to be deprived of their property.

In the result, the appeal is allowed. The order of the learned Single Judge is set aside. As a sequel to this, the writ petition filed by

the appellants is partly allowed. The draft declaration published vide notification dated 22-1-2007 is quashed. The Collector is directed to reconsider the objections filed by the appellants and pass appropriate order indicating therein the reasons, howsoever briefly, for acceptance or rejection of the objections.

We also direct that till the matter is decided afresh by the Collector, status quo shall be maintained by the parties. This would necessarily mean that if the appellants have not been dispossessed so far, they shall not be dispossessed. If they have been dispossessed, then the official respondents shall not alter the present status of the property. If the appellants are still in possession, then they shall not make any change in the character of the property as it is obtaining today.

G.S. SINGHVI, CJ

March 12, 2007

C.V. NAGARJUNA REDDY, J

svs

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[1] (2005) 7 SCC 627
[2] (1980) 2 SCC 471
[3] (1998) 6 SCC 1
[4] (2004) 8 SCC 14
[5] (2004) 8 SCC 453
[6] (1977) 1 SCC 715
[7] (2000) 7 SCC 296